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DEPARTMENT FOR EAP/MLS, G/TIP, AND DRL
USAID FOR ASIA BUREAU

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TAGS: [PGOV](#) [PHUM](#) [KWMN](#) [KJUS](#) [CB](#)
SUBJECT: CAMBODIA: BAFFLING RELEASE OF CONVICTED PEDOPHILE

REF: A. PHNOM PENH 545
[1](#)B. PHNOM PENH 179

[1](#)1. (SBU) Summary: In a disturbing move, the Sihanoukville Municipal Court on July 21 released a convicted Russian national, Nikita Belov, after suspending his already-light three year sentence on misdemeanor charges of indecent acts against minors. As reported in Post's quarterly TIP report covering January to March 2008 (Ref A), Belov was arrested on January 8 on charges of debauchery involving three boys aged 7 to 13. Belov had been in pre-trial detention for six months and 15 days when the Sihanoukville Municipal Court convicted and sentenced him to three years in prison but suspended his sentence later that same day. He was reportedly released on July 23 and was spotted around Sihanoukville until July 28, after which he has not been seen. There is strong reason to believe that Belov has left the country; however, TIP crime investigation NGO Action Pour Les Enfants (APLE) is nonetheless trying to encourage the court prosecutor to revoke the pedophile's visa, restrict his departure from Cambodia, and to appeal the judge's suspension decision. The Ambassador wrote a letter to the Minister of Justice requesting his personal involvement in reviewing the process that led to Belov's release. As the Ambassador stated in his letter, the Sihanoukville judge's decision essentially puts out a welcome mat for all such criminals, and undermines the great strides that the Royal Government of Cambodia has made over the past year to combat TIP. End summary.

Convicted Pedophile Released After Six Months in Jail

[1](#)2. (SBU) The Sihanoukville Municipal Court on July 21 suspended the already-light three year prison sentence of a Russian pedophile who was convicted of sexually abusing three young boys -- the pedophile, Nikita Belov, was released on probation two days later. Despite testimony from the three boys that Belov had sexual intercourse with them, questionable medical certificates submitted to the court allowed Judge In Manith to convict Belov on a misdemeanor charge of indecent acts against a minor under the new anti-TIP law. Sexual intercourse with a minor is a felony under Cambodian law and carries a punishment of five to ten years in jail; indecent acts against a minor, one to three years.

Questionable Medical Certificates Lead to Misdemeanor Charge

[1](#)3. (SBU) According to APLE Country Director Seila Samleang, the medical certificates submitted as evidence in the Belov trial did not state clearly that Belov had intercourse with the victims. Samleang stated that medical certificates, ordered by police after arrests in such cases, are not always reliable. He said that lawyers have access to the doctors who write the medical certificates, and he believes that

sometimes the medical certificates are compromised due to corruption. Samleang said that he has been involved with cases in which a doctor has verbally told him a different medical conclusion than what is submitted on a medical certificate. He added that the medical certificates themselves can be difficult to interpret with some doctors stating on one area of the report that physical injury related to the nature of the crime was observed, but on another area of the report that the result of the exam is inconclusive. Samleang noted that on past occasions, he has received different medical exam conclusions from different clinics regarding the same victim and alleged crime.

Suspended Three Year Sentence

¶4. (SBU) In terms of a conviction on the criminal misdemeanor charge of indecent acts against a minor, Belov received the maximum allowable prison sentence but the court then made what Samleang deemed an "unusual" decision to suspend the sentence. Belov had been in pre-trial detention for six months and 15 days before his trial date on July 21. Judge In Manith decided on probation for Belov later on the same day that she convicted and sentenced him. Post is seeking a copy of the verdict from the court but has heard from APLE that the judge gave no reason for the suspension, only commenting that it is allowable under the law in the case of a misdemeanor.

Little Training on New Law Leaves Gap for Corruption

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¶5. (SBU) The new anti-TIP law breaks down various TIP and sexual exploitation crimes into different articles, allowing a judge to convict perpetrators on a number of different charges and to apply compound penalties. As an example, sexual intercourse with a minor, indecent acts with a minor, child pornography, and purchase of child prostitution are each considered separate offenses and, as stated in Article 6 of the law: "when an accused is found guilty of several concurrent offenses, each of the penalties incurred may be pronounced." However, The Asia Foundation Program Officer Katherine Keane, who works with the anti-TIP National Task Force Prosecution Working Group, stated that during a recent training exercise with some judges and prosecutors, they found that judges and prosecutors did not often look beyond the first offense they found in the new anti-TIP law. She stated that it seemed not an easy law to apply. When the law was passed and promulgated in February 2008 (Ref B), judicial and law enforcement officials had neither copies of the law nor training on it. The law was published en masse and officially distributed in early July although some training for law enforcement and judicial officials through the National Task Force had begun in May. The National Task Force has stated that it does not expect widespread training to take place until late in 2008. Ministry of Justice Secretary of State Chan Sotheavy also stated that the Ministry started to run a weekly television spot explaining the new law article by article.

Comment

¶6. (SBU) Gaps in information dissemination, training, and understanding of the new anti-TIP law could continue to provide space for Cambodia's notoriously corrupt courts to let off criminals such as Belov -- this is the reality of having the new law come into effect without training. However, Judge In Manith is not off the hook for her having released Belov on probation after only six months in prison. The Ambassador sent a letter to Minister of Justice Ang Vong Vathana requesting his personal involvement in the review of the process which allowed the distressing release. There is every reason to believe that Belov has left the country but

APPLE has nonetheless decided to continue working with the court prosecutor seeking the revocation of Belov's visa to prevent his departure from Cambodia, and an appeal of the sentence decision. Samleang reported that Ministry of Justice Under-Secretary of State Ith Rady promised to fully investigate the case. However, given that the situation may require an investigation of the Sihanoukville court judge, minister-level involvement will likely be required to restore justice. We note that the removal of Appeals Court Judge Ly Vouch Leng required Deputy Prime Minister Sar Kheng's involvement. For this reason, the Ambassador plans to raise the issue during an upcoming meeting with Sar Kheng as well.

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